

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Berg Analyst: Deborah Barrett Bill Number: AB 2487  
Related Bills: See Legislative History Telephone: 845-4301 Amended Date: March 10, 2008  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Victims Compensation and Government Claims Board refer Domestic Violence Orders to FTB for Collection

### SUMMARY

This bill would authorize the Victims Compensation and Government Claims Board (VCGCB) to refer civil judgments for domestic violence to Franchise Tax Board (FTB) for collection.

### SUMMARY OF AMENDMENTS

The March 10, 2008, amendments would remove provisions relating to injured spouses recovering their share of refunds attributable to their income or refundable credits and would add provisions allowing VCGCB to refer civil judgments for domestic violence to FTB for collection. This is the department's first analysis of this bill.

### PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to provide an avenue for victims of domestic violence to recover civil judgments awarded to them.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2009, and would be operative for civil judgments referred to VCGCB on or after that date.

### POSITION

Pending.

### ANALYSIS

#### STATE LAW

The California VCGCB can compensate victims of violent crime for certain expenses incurred as a result of the crime. Reimbursement can be made if the victim has no other sources of reimbursement available such as health insurance, worker's compensation or other benefits. For crimes that occurred on or after January 1, 2001, the maximum amount that can be reimbursed is \$70,000. The state is entitled to recover the amount of assistance granted to a victim out of any recovery by or on behalf of the victim from any third party liable for the victim's losses.

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Any fees, penalties, forfeitures, restitution orders or fines, or certain amounts imposed by a superior or municipal court or governmental entity in California that is enforceable by VCGCB, delinquent for 90 days or more, and totaling in the aggregate one hundred dollars (\$100) or more can be referred by VCGCB to FTB for collection. After issuing a preliminary notice to the debtor, FTB is authorized to collect the referred debts in the same manner as authorized for collection of a delinquent personal income tax liability. FTB's costs attributable to this collection program are reimbursed through the amount FTB collects for the program. In general, the county or state fund originally owed the debt receives the net collection proceeds after reduction by the amount of FTB's departmental collection costs. In the case where a debtor owes multiple debts, the amount collected is distributed by the courts on a pro-rata basis. Generally, if a debt is not collected within three years, the case is returned to the court and FTB ceases collection on the debt.

Current state law authorizes FTB to use administrative collection tools to collect delinquent tax and non-tax debt liabilities. Collection actions include, but are not limited to, attaching bank accounts and garnishing wages.

#### THIS BILL

This bill would allow victims of domestic violence that have received civil judgments to refer those judgments to VCGCB for collection. These judgments would be treated as restitution orders, and referred by VCGCB to FTB for collection in FTB's court ordered debt collection program.

#### IMPLEMENTATION CONSIDERATIONS

Because this bill would allow the civil judgments for domestic violence to be collected in the same manner as restitution orders that are referred to FTB by VCGCB, implementing this bill would not significantly impact department programs or operations.

#### **LEGISLATIVE HISTORY**

SB 1203 (Runner, 2008) would authorize the California Department of Corrections and Rehabilitation (CDCR) to contract with FTB for collection of direct restitution orders on behalf of victims of prison inmates. This bill has not yet been heard in committee.

AB 367 (de Leon, Stats. 2007, Ch. 132) established a task force to evaluate the imposition of criminal court-ordered debts and distribution of revenue from the collection of those debts and lowered the balance requirement for referral of COD for collection to the FTB.

SB 246 (Escutia, Stats. 2004, Ch. 380) extended indefinitely the provisions authorizing a county to refer delinquent debts to FTB for collection, thereby requiring FTB and the courts to expand the collection or court ordered debts to all 58 California Counties.

## **PROGRAM BACKGROUND**

FTB currently collects debts referred from courts of 43 counties and maintains an inventory of approximately 1.1 million cases. Non-tax debt collection is accomplished primarily through the use of wage garnishments and bank levies. In August, 2004, SB 246 (Stats. 2004, Ch. 380) made FTB's Court Ordered Debt (COD) program permanent and requires FTB to expand participation to all 58 counties and superior courts. To meet this requirement, FTB initiated the Court Ordered Debt Expansion (CODE) project to develop and implement a scalable collection and billing system. CODE is in development and is expected to be functional by August, 2009. CODE is expected to administer an inventory of approximately 8 million cases from potentially 190 different courts.

## **FISCAL IMPACT**

Because debts referred to FTB for collection under the provisions of this bill would be subject FTB reimbursement for costs, implementing the provisions of this bill would not significantly impact department costs.

## **ECONOMIC IMPACT**

The provisions of this bill would not impact state income tax revenues.

## **POLICY CONCERNS**

The provisions of this bill would use the resources of the state to collect debts owed to private individuals, and would place those private debts in the same priority for payment as debts owed to the state or county.

## **LEGISLATIVE STAFF CONTACT**

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